

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DREW THOMPSON,

Plaintiff,

v.

SECRETARY OF THE WASHINGTON
STATE DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

Case No. C07-0730RJB

ORDER ADOPTING
REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge J. Kelley Arnold. Dkt. 9. The Court has considered the Report and Recommendation, Objections to the Report and Recommendation, and the remainder of the file herein.

On July 2, 2007, Magistrate Judge J. Kelley Arnold issued an Order to Provide Service Copies, directing Plaintiff to provide four U.S. Marshal service forms and copies of Plaintiff's complaint for each defendant to the Court by July 28, 2007. Dkt. 8. The Court received four U.S. Marshal service forms on July 18, 2007, but did not receive copies of Plaintiff's complaint. Dkt. 9. On August 13, 2007, Judge Arnold issued a Report and Recommendation, recommending that Plaintiff's action be dismissed without prejudice for failure to prosecute because Plaintiff failed to provide the Court with copies of Plaintiff's complaint. *Id.* As of this date, the Court has not received service copies of Plaintiff's complaint.

On August 23, 2007, Plaintiff filed Objections to the Report and Recommendation. Dkt. 10. Plaintiff has raised two objections. First, Plaintiff requests counsel in order to interpret the case number

1 and caption of his action. Second, Plaintiff seeks “court record [sic] / names, dates, [and] outcomes of
2 (1993 to 2000) prisoner victims assaulted by Western Dist. prison staff.” *Id.* In this second objection,
3 Plaintiff appears to be making a discovery motion.

4 Under 28 U.S.C. § 1915(e)(1), the court may request an attorney to represent any person unable to
5 afford counsel. Under Section 1915, the court may appoint counsel in exceptional circumstances.
6 *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). To find exceptional circumstances, the court
7 must evaluate the likelihood of success on the merits and the ability of the petitioner to articulate the claims
8 pro se in light of the complexity of the legal issues involved. *Weygandt v. Look*, 718 F.2d 952, 954 (9th
9 Cir. 1983).

10 Plaintiff has not shown that he is likely to succeed on the merits. He has not shown he is unable to
11 articulate the instant case’s claims pro se. Plaintiff has not filed an objection that explains his failure to
12 provide service copies of his complaint as directed by the Order to Provide Service Copies, and has not
13 demonstrated that he is unable to understand the requirements of the Order to Provide Service Copies.
14 Rather, Plaintiff demonstrated that he understood the Order to Provide Service Copies when he complied
15 with the portion of the Order that required him to provide U.S. Marshal service forms to the Court by July
16 28, 2007.

17 Plaintiff’s second motion, requesting discovery, is premature because he has failed to provide
18 copies of the complaint for each defendant as required by the Order to Provide Service Copies. Plaintiff
19 was required to provide these copies in order to provide notice to the defendants of this pending action.
20 Plaintiff was required to comply with the Order to Provide Service Copies prior to filing motions related to
21 discovery.


22 Plaintiff has been given ample time to comply with the Court’s order. The Report and
23 Recommendation should be adopted and this case dismissed without prejudice.

24
25 Therefore, it is hereby

26 **ORDERED** that the Report and Recommendation of Judge Arnold (Dkt. 9) is **ADOPTED**. This
27 matter is **DISMISSED WITHOUT PREJUDICE**

1 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any
2 party appearing *pro se* at said party's last known address.

3 DATED this 6th day of September, 2007.

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6 ROBERT J. BRYAN
7 United States District Judge
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